## REMARKS/ARGUMENTS

Consideration of the above-identified application in view of the following remarks is requested.

The claims pending and under consideration are claims 1-8. Claims 10-15 have been cancelled without prejudice as directed to nonelected subject matter.

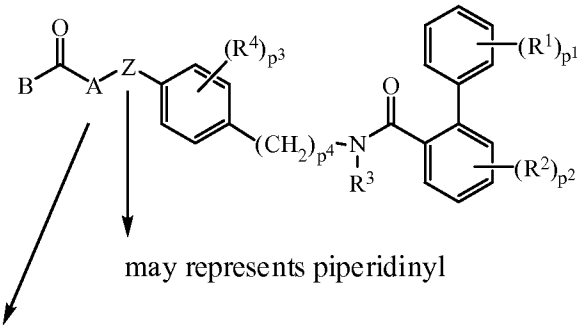
## Claim Rejections – 35 USC § 103

1. Claims 1-8 were rejected under 35 U.S.C. 103(a) "as being unpatentable over Meerpoel, WO 2002081460 A1 (cited on the IDS), in view of Daugan, WO 2003048121 (cited on the IDS), Daugan WO2000032582 (U.S. equivalent is 6,552,022), Dodic, WO2001096327 (cited on the IDS), Daugan WO2001097810 in further of Williams et al. "Novel Microsomal Triglyceride Transfer Protein Inhibitors" Expert Opinion On Therapeutic Patents 2003, 13, 479-488.

This rejection is traversed. It is respectfully submitted that in the very least, the difference between the presently claimed compounds and the compounds of WO02/081460 is the invariable presence in the present compounds of a methylene group which is <u>not</u> substituted. The corresponding structural element in the compounds of WO02/018460 is the radical A which is a $C_{1-6}$alkanediyl group which is always substituted when the radical Z is piperidinyl.

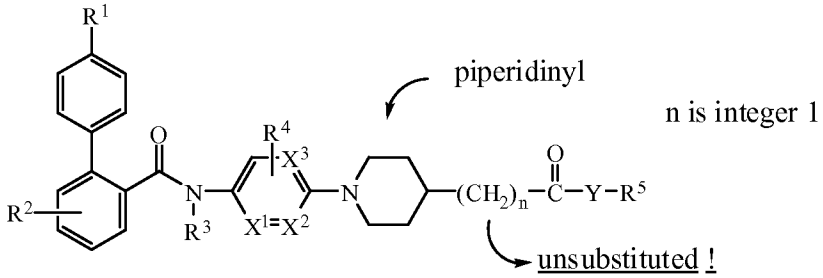
This structural difference between the present invention and WO02/018460 is visualized below.

WO 02/018460




A is $C_{1-6}$alkanediyl always substituted with e.g. aryl when Z is piperidinyl

present invention




It is respectfully submitted that WO02/081460 fails to teach or suggest that when radical Z in the compounds of WO02/081460 represents a piperidinyl group, then radical A may represent a methylene group which is unsubstituted. In fact the teaching in WO02/081460 is exactly the opposite: when radical Z represents a piperidinyl group then radical A in the compounds of WO02/081460 must be substituted.

The Examiner appears to rely on Examples in Daugan, WO 2003048121, Daugan, WO 2000032582, Dodic, WO2001096327, Daugan, WO 2001097810, and the discussion in the Williams reference that "[i]n the instant case the prior art points directly to removal of the phenyl ring as shown by the secondary teachings." However, Applicants note that the Examples cited by the Examiner in Daugan WO 2003048121, Daugan, WO 2000032582, Dodic, WO2001096327, Daugan, WO 2001097810 include piperazine groups whereas the compounds of the present

invention and those cited by the Examiner in WO02/081460 include a piperidine group. Further as noted above, with respect to the compounds disclosed in WO02/081460, WO02/081460 teaches that when radical Z represents a piperidinyl group then radical A in the compounds of WO02/081460 must be substituted

Accordingly it is respectfully submitted that the compounds of the present invention include a unique structural element (e.g., a methylene group which is NOT substituted) that is not taught nor suggested by WO02/081460 in view of Daugan, WO 2003048121 (cited on the IDS), Daugan WO2000032582 (U.S. equivalent is 6,552,022), Dodic, WO2001096327 (cited on the IDS), Daugan WO2001097810 in further of Williams et al. "Novel Microsomal Triglyceride Transfer Protein Inhibitors" Expert Opinion On Therapeutic Patents 2003, 13, 479-488. Further, it is respectfully submitted that one of ordinary skill in the art would not be motivated to make such a structural change to the compound in WO02/081460 as when radical Z represents a piperidinyl group then WO02/081460 indicates that radical A in the compounds of WO02/081460 must be substituted.

In view of the above, the Examiner is respectfully requested to remove this rejection.

2. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meerpoel USPG Pub 2006/0040989 in view Meerpoel, WO 2002081460 A1 (cited on the IDS) in further view of Williams et. al. "Novel Microsomal Triglyceride Transfer Protein Inhibitors" Expert Opinion on Therapeutic Patents 2003, 13, 479-488.

As noted by the Examiner, the applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). As noted by the Examiner, this rejection might be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP §706.02(1)(1) and §706.02(1)(2).

It is respectfully submitted that the reference Meerpoel USPG Pub 2006/0040989 is disqualified under 35 U.S.C. 103(c) as prior art as this reference was subject to assignment to an obligation of Assignment to the same person (*Janssen Pharmaceutica N.V.). In support of this the Examiner's attention is directed to Reel/Frame 017938/0217 for the present application and Reel/Frame 016892/0367 for US 2006/0040989.

In view of the above, the Examiner is respectfully requested to remove this rejection.

**Claim Rejections – Double Patenting**

Claims 1-8 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting "as being unpatentable over claims 1-7 of copending Application No. 10/474,281 in view of Daugan, WO 2003048121 (cited on IDS), Daugan, WO 2000032582 (U.S. equivalent is 6,552,022), Dodic, WO 2001096327 (cited on IDS), Daugan, WO 2001297810 in further view of Williams et al. "Novel Microsomal Triglyceride Transfer Protein inhibitors" Expert Opinion On Therapeutic Patents 2003, 13, 479-488."

In response, as this rejection is provisional, applicants will address such rejection upon indication by the Examiner that the claims are otherwise allowable.

Early favorable action on the merits is respectfully requested.

Please charge any fees, which may be required for this submission to Johnson & Johnson Deposit Account 10-0750/PRD2172USPCT/DK.

Respectfully submitted,

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Dated: August 10, 2009